

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FABIAN SANTIAGO,

Plaintiff,

V.

SGT. CHILDERS, et al.,

Defendant.

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Civil No. **05-512-MJR-CJP**

ORDER

PROUD, Magistrate Judge:

Before the Court is plaintiff Santiago's "Motion for the Levy of Penalties, Cost[s] and Sanctions, and an Order Compelling Discovery." (**Doc. 143**). Plaintiff contends the defendants turned over eight photos that purportedly came from plaintiff's medical file, but which actually came from the Internal Affairs Unit. Plaintiff perceives that the defendants were attempting to prevent him from recovering reports and other materials from Internal Affairs. Plaintiff further states that he has always known that all photos were taken by Internal Affairs staff. (**Doc. 143, pp. 2-3**). Plaintiff requests that the defendants be sanctioned for filing a false pleading and deliberately withholding and/or concealing discovery which has prevented plaintiff from identifying the "John Doe" defendants.

A review of plaintiff's discovery requests reveals that the defendants were asked to turn over photographs, but they were not actually asked to identify where each photo came from. (**Doc. 143, pp. 6-7**). Plaintiff has failed to provide the Court with any documentation showing how the assertion was made that the photos came from plaintiff's medical file; it may have been a tangential comment or notation. On that basis alone, the Court has insufficient grounds upon

which to sanction the defendants. In any event, plaintiff acknowledges that the defendants did turn over the photos, and that he always knew they were taken by and were in possession of the Internal Affairs Unit, so the harm to plaintiff is not readily apparent. There is simply nothing to substantiate a finding of bad faith and/or a conscious effort to lead plaintiff astray.

IT IS THEREFORE ORDERED that the subject motion (**Doc. 143**) is **DENIED** in all respects.

DATED: June 10, 2009

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE